



STATE OF WASHINGTON
OFFICE OF THE STATE HUMAN RESOURCES DIRECTOR

DIRECTOR'S REVIEW PROGRAM
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January 4, 2013

TO: Teresa Parsons, SPHR
Director's Review Program Supervisor

FROM: Kris Brophy, SPHR
Director's Review Investigator

SUBJECT: Cheri Carter v. Department of Health (DOH)
Allocation Review Request ALLO-12-024

Director's Determination

As the Director's designee, I carefully considered all of the documentation in the file, including the exhibits presented during the Director's review conference and the verbal comments provided by both parties. Based on my review and analysis of Ms. Carter's assigned duties and responsibilities, I conclude her position should be reallocated to the Health Services Consultant 2 classification.

Background

On March 19, 2012, DOH Human Resources (DOH-HR) received Ms. Carter's Position Review Request (PRR) form, requesting that her position be reallocated to the Health Services Consultant 3 classification (Exhibit B-2).

DOH-HR, conducted a position review and by letter dated March 28, 2012, notified Ms. Carter that her position was properly allocated to the Health Services Consultant 1 classification (Exhibit B-10).

On April 13, 2012, the Office of the State Human Resources Director received Ms. Carter's request for a Director's review of DOH's allocation determination (Exhibit A-1).

On November 8, 2012, I conducted a Director's review telephone conference. Present for the conference were Ms. Cheri Carter; Ms. Stacey Leanos, Council Representative, WFSE; and Ms. Stephanie Price, Human Resource Consultant, DOH.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the

volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Duties and Responsibilities

Ms. Carter works as a Medicare Certification Specialist in the Specialized Facilities Section within the Office of Investigations and Inspection. Ms. Carter assures Medicare providers comply with the appropriate Medicare certification requirements and she performs other related functions involving facility survey and examination, and complaint inspection and investigation. Ms. Carter states in her Position Review Request (PRR) that she serves as the primary liaison between DOH and the Centers for Medicare and Medicaid Services (CMS) Seattle Regional Office, health care providers, and the public for the Medicare certification program requirements, documentation and work processes. Ms. Carter ensures health care providers complete and submit the proper Medicare certification documentation to the CMS for approval. She assures DOH employees have the most current and correct Medicare certification information. She supports and maintains data for two federal databases regarding inspections and complaint activities. She assists health facilities with information regarding Medicare regulation and notifies perspective applicants regarding the requirements for obtaining Medicare certification.

Ms. Carter's duties and responsibilities are summarized from the PRR (Exhibit B-2) as follows:

- 35% Works independently with minimal supervision as the Medicare Certification Specialist and primary liaison between the Centers for Medicare and Medicaid Services (CMS) Seattle Regional Office, DOH, health care providers and the public.
- 30% Works independently with minimal supervision to maintain and monitor federal Medicare inspection & investigation databases (ASPEN Central Office – ACO and ACTS) for acute care hospitals, critical access hospitals, transplant hospitals, ambulatory surgery centers, end stage renal disease facilities, comprehensive outpatient rehabilitation facilities, rural health clinics, home health and hospice agencies.
- 15% Prepares, disseminates and finalizes Federal Medicare initial, renewal, certification updates and change of ownership documentation for acute care hospitals, critical access hospitals, transplant hospitals, ambulatory surgery centers, end stage renal disease facilities, comprehensive outpatient rehabilitation facilities, rural health clinics, home health and hospice agencies, PPS rehabilitation facilities, PPS [Prospective Payment Services] psychiatric facilities, and swing beds.
- 10% Serves as a primary contact and liaison for Medicare certification program requirements, documentation, and work processes.
- 10% Serves as the Medicare Training Coordinator. Monitors and updates CMS training and information. Develops monthly and quarterly reports. Participates in special projects and other duties as assigned.

Ms. Carter reports to the Executive Director for Specialized Services, Mr. Byron Plan. Mr. Plan reports to Mr. David Magby, who is Director of the Office of Investigation and Inspection. During

the review telephone conference Ms. Price explained that Mr. Magby completed the supervisor's portion of the PRR in Mr. Plan's absence.

Mr. Magby indicates in Exhibit B-3 that Ms. Carter's description of assigned work activities is not accurate and complete. In his comments, Mr. Magby stated that Ms. Carter does not serve as a senior level consultant, but rather responds to questions about the prescribed process and advises her supervisor regarding the work product. Mr. Magby indicates that Ms. Carter does not perform the following functions in her position:

- Assist management in the review, analysis and impact of health legislation, health policy, rule development and fiscal management;
- Program planning and evaluation of health service delivery products
- Developing and implementing health policies and procedures

He also states that Ms. Carter inputs data into the federal system but does not have any management level responsibilities regarding the federal databases with which she works.

In his comments, Mr. Magby acknowledges that the volume of work Ms. Carter performs has increased but that the scope of her duties has not changed. He states that Ms. Carter's supervisor was on extended medical leave during four months of the review period and that she has worked more independently during that time. In response to Ms. Carter's indication that three administrative staff would benefit by her serving as a lead, Mr. Magby emphasized that the administrative positions have jobs that differ from Ms. Carter's and were not developed to support Ms. Carter in her role. He also states that the case manager positions Ms. Carter references have significantly different roles assigned to their positions.

Summary of Ms. Carter's Perspective

Ms. Carter asserts the majority of her duties meet the requirements of the HSC 3 classification.

Ms. Carter contends she is the primary liaison between the agency and the CMS Seattle Regional Office, health care providers and the public. She asserts she works independently and is expected to develop and be innovative and responsible for the flow and completion of all Medicare Certification work which includes surveys and complaint investigations. Ms. Carter asserts she manages multiple health data systems (ASPEN: ACO, ACTS & ILRS). Ms. Carter contends her duties require higher credentials and knowledge, skills and abilities than the HSC 1 level class. Ms. Carter contends her position should be reallocated based on the similar level of responsibility of the Case Management positions which were reallocated from the HSC 1 to the HSC 3 class.

In Byrnes v. Dept's of Personnel and Corrections, PRB No. R-ALLO-06-005 (2006), the Board held that "[w]hile a comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed by and the level of responsibility assigned to an incumbent, allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position." Citing to Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996).

Summary of DOH's Reasoning

DOH asserts the scope and level of Ms. Carter's duties have not significantly changed from the previous position description for her position. DOH asserts that Ms. Carter's position does not meet any of the allocating criteria stated in the Definition of the HSC 3 class. DOH asserts Ms. Carter does not function as an assistant manager of a statewide health program, nor does she manage a region for the Department of Health. DOH contends that Ms. Carter's position does not function as a senior consultant and that her position has not been designated in writing as a specialty area by the appointing authority as required.

DOH asserts that the scope and level of responsibility assigned to Ms. Carter's position is consistent with HSC 1 level class.

Comparison of Duties to Class Specifications

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations. While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification.

Comparison of Duties to Health Services Consultant 3

The Definition for this class states:

Functions as an assistant manager of a statewide health program by performing more than one of the following functions within the Department of Health:

- Preparing and managing budgets, contracts or grants.
- Coordinates division fiscal management.
- Program planning and evaluation of health service delivery products.
- Developing and implementing health policies and procedures.
- Managing health data systems.
- Supervising staff providing health services to the public.

OR

Manages a region for the Department of Health.

OR

Serves as a senior health services consultant in a specialty area to WMS Band 2 or higher. The specialty must be designated and conveyed in writing by the Department of Health appointing authority.

The Distinguishing Characteristics for this class state:

This is the senior level of the professional Public Health Consultant series.

Positions at this level report to Health Services Consultant 4's, equivalent, or to a position in WMS.

Ms. Carter's position does not reach the allocating criteria stated in the Definition of this class. Ms. Carter does not function as an assistant manager of a statewide health program, nor does she manage a region for the Department of Health.

Ms. Carter's position does not meet the third allocating criteria stated in the HSC 3 class definition of serving as a senior health services consultant.

The Office of the State Human Resources Director's (OSHRD's) Glossary of Classification Terms provides further clarification on the definition of senior as follows:

Senior - The performance of work requiring the consistent application of advanced knowledge and requiring a skilled and experienced practitioner to function independently. Senior-level work includes devising methods and processes to resolve complex or difficult issues that have broad potential impact. These issues typically involve competing interests, multiple clients, conflicting rules or practices, a range of possible solutions, or other elements that contribute to complexity. The senior-level has full authority to plan, prioritize, and handle all duties within an assigned area of responsibility. Senior-level employees require little supervision and their work is not typically checked by others.

Ms. Carter works with a high degree of autonomy and independence in performing her work; however, her position does not function as a senior level consultant in a designated specialty area. Ms. Carter's position does not perform senior-level described by this class such as assisting management in the review, analysis and impact of health legislation, health policy, rule development and fiscal management. She does not perform program planning and evaluation of health service delivery products, nor does she develop and implement health policies and procedures at the level anticipated by this class. Additionally, Ms. Carter does not have management level responsibilities regarding the federal databases with which she works.

Ms. Carter performs a variety of duties which includes responding to questions and providing information about the prescribed Medicare certification and other related processes.

In addition, the definition requires the specialty to be "designated and conveyed in writing by the Department of Health appointing authority." In considering the written designation requirement, I reviewed prior Personnel Resources Board (PRB) decisions. In Allotta v. Department of Information Services, PRB Case No. R-ALLO-09-021 (2009) and Eastern Washington University v. Akin, PRB Case No. R-ALLO-09-004 (2009), the Board cited prior Personnel Appeals Board (PAB) decisions addressing written designation, as summarized in Osborne v. Department of Transportation, PAB Case No. ALLO-02-0032 (2003) as follows:

Consistent with our decisions in Griffith v. Dep't of Ecology, PAB Case No. ALLO-00-0016 (2000) and Stash v. Dep't of Ecology, PAB Case No. ALLO-00-0001 (1999), when a classification specification requires written designation, we must look for a document that confers such a designation upon the position in question. This written documentation can be a formal agency designation form, an approved CQ, or other written documentation. We find no document that confers, as required in the ITS/AS6 specification, written designation for

Appellant's position to be designated at the ITS/AS6 job classification. Because Appellant lacks written designation from the IT/IS management, the scope of duties and level of independence assigned to his position are best described by the ITAS5 classification.

Although the prior Board cases discuss different job classes, the concept of written designation as described in a particular class specification applies. Allocation to the Health Services Consultant 3 job class specifies that the specialty must be designated and conveyed in writing by the Department of Health appointing authority. In this case, Ms. Shannon Marshall, Chief Administrator, Office of the Assistant Secretary, is the designated appointing authority for Ms. Carter's position. In Exhibit B-4, Ms. Marshall states that she does not, "...consider this position to be a senior health services consultant in a specialty area to a WMS Band 2 or higher." Therefore, Ms. Carter's position lacks the written designation from the appointing authority to be a specialty area as required. In addition, Mr. Magby states in his comments in exhibit B-6 regarding the use of the word "specialized" in Ms. Carter's position description that, "...the term 'specialized' is used to distinguish between the clinical care and other types of facilities [with which Ms. Carter works.]"

Therefore, the scope of duties, and the overall level of responsibility assigned to her position does not reach the requirements of the HSC 3 definition and her position should not be reallocated to that class.

Comparison of Duties to Health Services Consultant 1 & 2

The Definition for the Health Services Consultant 1 class states:

This is the entry level of the professional Health Services Consultant series. Positions must perform one or more of the following functions within the Department of Health:

- Maintains, monitors and updates specialized health databases regarding client eligibility, hospital patient data, vital statistics, enrollment, demographics and utilization.
- Promotes and assists with the evaluation of public health program effectiveness, compliance, and standards.
- Conducts public education outreach and/or prevention activities to improve public health.
- Maintains and distributes vaccine immunization biologicals and supplies.

The Office of the State Human Resources Director's (OSHRD's) Glossary of Classification Terms provides further clarification on the definition of entry level work as follows:

Entry - Performs beginning level work under close or direct supervision. Incumbents typically work within narrowly established guidelines and parameters. Duties are often repetitive and routine and decision-making is limited. Clear work directions and parameters are provided and outcomes are reviewed by higher levels.

The Definition for the Health Services Consultant 2 class states the following:

Provides technical consultation and assistance to local health departments, clinics, community and other health services providers by meeting one or more of the following functions within the Department of Health:

- Disease prevention, health promotion, health education and training of providers and/or public, nutrition services, and health program policy.
- Assists management in the review, analysis and impact of health legislation, health policy, rule development, and fiscal management.
- Conducts assessment and/or data surveillance activities.

The HSC 2 distinguishing characteristics describe the class as “the journey level of the Health Services Consultant series,” where incumbents “work independently and are expected to develop and innovate and be responsible for the flow and completion of work.”

Further, OSHRD's Glossary of Classification Terms defines journey as follows:

Journey - Fully competent and qualified in all aspects of a body of work and given broad/general guidance. Individuals can complete work assignments to standard under general supervision. Also referred to as the working or fully-qualified level.

The overall level and scope of responsibility of Ms. Carter's work regarding the DOH Medicare certification program exceeds the entry-level professional health services consultation requirements of the HSC 1 class. Ms. Carter primarily works with Medicare certifications and complaints. As stated by Ms. Carter's supervisor in exhibit B-6, “...the Medicare area does have many complex rules and regulations and Cheri's role is to assist facilities in sending the right certification paperwork that we eventually forward to CMS for their review and approval.”

During the review telephone conference, Ms. Carter clarified that she works fully independently on a daily basis to complete the required administrative workflow and perform the other related functions of her position, and to answer questions and provide the necessary documents to internal and external decision makers. Ms. Carter independently addresses a variety of questions from licensees and others. Her latitude for independent judgment and her degree of decision making authority exceeds the entry level requirements of the HSC 1 level class. This includes independent responsibility for such tasks as coordinating the Medicare certification application and approval process with the CMS Seattle Regional Office; conferring with the DOH Medicare manager on meeting CMS certification workload performance standards; and monitoring and modifying internal processes and procedures relative to changes in certification requirements, regulations and guidelines.

The majority of Ms. Carter's assigned work, and her level of responsibility for providing technical consultation and assistance to health care providers and others regarding the Medicare certification and complaint investigation process are performed independently at a fully qualified level as described in the HSC 2 job class. Ms. Carter is fully competent and qualified in all aspects of her work and she is independently responsible for the flow and completion of her work.

As a whole, Ms. Carter's responsibility for serving as the primary contact and liaison for the Medicare certification process also requires her to function at a higher level than anticipated by

the HSC 1 class. In total, her overall duties and level of responsibility more closely align with the journey level duties anticipated by the HSC 2 class.

When determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities. Dudley v. Dept. of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

Further, positions are to be allocated to the class which best describes the majority of the work assignment. Ramos v DOP, PAB Case No. A85-18 (1985).

A position's allocation is not based on an individual's ability to perform higher-level work or on an evaluation of performance. Instead, a position's allocation is based on the majority of work assigned to a position and how that work best aligns with the available class specifications. In this case, the level, scope and diversity of the overall duties and responsibilities of Ms. Carter's position best fit the Health Services Consultant 2 (HSC 2) classification. Her position should be reallocated to that class.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 4th floor of the Insurance Building, 302 Sid Snyder Avenue SW, Olympia, Washington. The main telephone number is (360) 902-9820, and the fax number is (360) 586-4694.

If no further action is taken, the Director's determination becomes final.

c: Cheri Carter
Stacey Leanos, WFSE
Stephanie Price, DOH
Lisa Skriletz, OSHRD

Enclosure: List of Exhibits

CHERI CARTER v DOH

ALLO-12-024

List of Exhibits

A. Cheri Carter Exhibits

1. Cheri Carter's Request for Director's Review received April 13, 2012 (2 pages)
2. Letter of appeal from Cheri Carter to OSHRD dated April 13, 2012 (2 pages)
3. Copy of Interview questions and answers from David Magby, supervisor (6 pages)
4. DOH allocation determination letter from Rozanne Stewart to Cheri Carter dated March 28, 2012 (5 pages)
5. List of additional documents submitted for the appeal dated May 10, 2012
6. Rebuttal statement of HR's exhibits (2 pages)
7. A copy of a "Request To Fill a Vacancy document for an HSC 1 position (3 pages)
8. A "Job Analysis Record" table for a HSC 1 level position dated July 2010 (6 pages)
9. An "Organizational Management" form for a HSC 1 position date stamped September 30, 2010
10. A "Position Action Request" form for a vacant HSC 1 position date stamped August 2, 2010
11. Original Position Description form for Cheri Carter's position date stamped September 23, 2010 (7 pages)
12. A copy of exhibit 10 above with emphasis arrows added
13. A Job Analysis Record for HSC 1 position dated July 2010 (6 pages)
14. March 13, 2012 email chain from Cheri Carter submitting reallocation request (3 pages)
15. A copy of the Position Review Request for Cheri Carter (employee signature only) (7 pages)
16. Original reallocation request document submitted to Trent Kelly on February 18, 2012 (2 pages)

B. DOH Exhibits

1. Cover letter from Rozanne Stewart submitting the following HR exhibits, received by OSHRD on April 23, 2012 (2 pages)
2. Position Review Request for Cheri Carter received March 19, 2012, with employee portion only (7 pages)

3. Position Review Request for Cheri Carter with Supervisor portion received March 19, 2012 (3 pages)
4. March 20, 2012 email between Rozanne Stewart and Shannon "Sam" Marshall, HSQA appointing authority
5. PRR Interview notes with Cheri Carter dated March 24, 2012 (5 pages back-to-back, 10 pages total)
6. March 26, 2012 email between Rozanne Stewart and David Magby regarding Cheri Carter's job duties (2 pages)
7. September 2010 Position Description for Cheri Carter's position (4 pages back-to-back, 7 pages total)
8. A copy of the September 2010 Job Analysis documentation for HSC 1 position (3 pages back-to-back, 6 pages total)
9. February 2012 Organizational Chart for Office of Investigation and Inspection
10. March 28, 2012 DOH allocation determination letter and cover email from Rozanne Stewart to Cheri Carter (4 pages back-to-back, 7 pages total)
11. Confirmation emails that the allocation determination was sent and read on March 28, 2012 (2 pages)
12. DOH Delegation of Appointing Authority Policy 07.001 (2 pages)
13. Division of Health Systems Quality Assurance Organizational Chart
14. Department of Health Organizational Chart

C. Class Specifications

1. DOP Class Specification for Health Services Consultant 1 (283H)
2. DOP Class Specification for Health Services Consultant 2 (283I)
3. DOP Class Specification for Health Services Consultant 3 (283J)